

MONDAY, APRIL 12, 1993

THIRTY-SECOND LEGISLATIVE DAY

The House met at 5:00 p.m. and was called to order by Mr. Speaker Naifeh.

The proceedings were opened with prayer by Dr. Bill Sherman, Woodmont Baptist Church, Nashville, Tennessee.

Representative Arriola led the House in the Pledge of Allegiance to the Flag.

EXCUSED

The Speaker announced that the following member(s) has/have been excused, pursuant to request(s) under Rule No. 20:

Representative Garrett.

Representative Jackson; illness.

ROLL CALL

The roll call was taken with the following results:

Present 97

Representatives present were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Haltzman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 97.

ENROLLED BILLS

April 12, 1993

The following bills have been compared, enrolled, and are ready

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for the signature(s) of the Speaker(s): House Resolution(s) No(s).

BETTY KAY FRANCIS, Chief Engrossing Clerk.

SIGNED

April 12, 1993

The Speaker announced that he had signed the following: House Resolution(s) No(s). 4.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

MESSAGE FROM THE GOVERNOR

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MR. SPEAKER: I am directed by the Governor to return herewith: House Bill(s) No(s). 19, 114, 150, 151, 217, 313, 338, 369, 439, 443, 497, 499, 574, 665, 675, 733, 739, 1066, 1160, 1418, 1594, 1606, 1610, 1613, 1614, 1615, 1616, 1617 and 1621; also, House Joint Resolution(s) No(s). 30, 128, 130, 131, 132, 140, 141, 143, 147 and 150; with his approval.

DAVID H. WELLES, Counsel to the Governor.

COMMUNICATIONS

April 8, 1993

I request that the following statement be spread upon the Journal.

On Monday, April 5 I was absent from the House Session due to illness. Had I been present in the Chamber I would have voted aye on the following bills.

HB 342, HB 429, HB 1213, HB 831, HB 1534, HB 669, HB 649, HB 648, HB 331, HB 344, HB 790, HB 587, HB 918.

I would also have voted aye for the Consent Calendar.

Thank you.

Brenda Kaye Turner

INTRODUCTION OF RESOLUTIONS

On motion, pursuant to Rule No. 17, the resolution(s) listed was/were introduced and referred to the appropriate Committee:

*House Resolution No. 0025 -- General Assembly, Studies -- Creates committee to study and develop forestry incentive and assistance program. by *Odom.

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Conservation and Environment Committee.

*House Joint Resolution No. 0193 -- Highway Signs -- "T. B. Garth Highway," segment of S.R. 114 in Wayne County. by *Collier.

Transportation Committee.

*House Joint Resolution No. 0195 -- Memorials, Government Officials -- Directs commissioner of human services, state university and community college system, and University of Tennessee system to jointly seek greater state resources for JOBSWORK Program. by *Arriola.

Education Committee.

RESOLUTIONS

Pursuant to Rule No. 17, the following resolution(s) was/were introduced and placed on the Consent Calendar for Wednesday, April 14, 1993:

House Resolution No. 0026 -- Memorials, Personal Occasion -- Ruby Herbison and Leonard Ray Kimbro, 50th anniversary. by *Head.

House Resolution No. 0027 -- Memorials, Recognition and Thanks -- Hutchison School. by *Kent.

House Joint Resolution No. 0196 -- Memorials, Public Service -- Coleman Smith. by *Rinks.

House Joint Resolution No. 0197 -- Memorials, Sports -- 1992-1993 Northeast Elementary School boys' basketball team, Cocke County Elementary School Basketball Tournament champions. by *Davis.

House Joint Resolution No. 0198 -- Memorials, Personal Achievement -- Caitlyn Helaine Hurley, God and Family Award. by *Johnson.

House Joint Resolution No. 0199 -- Memorials, Professional Achievement -- James Cooper. by *Jones R, *Turner L, *Dixon, *Byrd.

SENATE BILLS TRANSMITTED

On motion, the Senate Bills listed below, transmitted to the House, were held on the Clerk's desk pending third consideration of the companion House Bill as noted:

*Senate Bill No. 0013 -- Criminal Offenses -- Revises computer offenses. Amends TCA, Title 39, Ch. 14, Pt. 6. (HB 0370).

*Senate Bill No. 0667 -- Licenses -- Revises licensure provisions of alarm systems contractors. Amends TCA, Title 62, Ch. 32, Pt. 3. (HB 0426).

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***Senate Bill No. 0738 -- Public Funds and Financing --** Revises local government public obligations law; requires municipal corporations to comply with such law before entering into lease, loan agreement or sale contract with public building authority. Amends TCA, Title 9, Ch. 21; Title 12, Ch. 10. (HB 1551).

***Senate Bill No. 1037 -- Public Officials --** Creates office of state geographer. (HB 0588).

***Senate Bill No. 1423 -- Charitable Solicitations --** Revises solicitation of charitable funds. Amends TCA, Title 48, Ch. 3, Pt. 5. (HB 1584).

***Senate Bill No. 1467 -- Insurance Companies, Agents, Brokers --** Revises various provisions relative to insurance; enacts "Reinsurance Intermediary Act". Amends TCA, Title 56, 56-1-408, 410, 411, 56-1-501; Title 56, Ch. 2, 56-2-104, 56-2-201, 208, 209, 56-3-501; Title 56, Ch. 6, 56-6-602--604, 330; Title 56, Ch. 11, 56-11-205, 206, 56-32-222, 56-45-103, 114. (HB 1417).

***Senate Bill No. 1483 -- Boats, Boating --** Requires titling and registration of certain watercraft. (HB 1440).

HOUSE BILLS ON SECOND CONSIDERATION

On motion, bills listed below passed second consideration and were referred by the Speaker to Committee or held on the Clerk's desk as noted:

House Bill No. 1641 -- Shelby County -- Held on Clerk's desk pending approval by local delegation.

CONSENT CALENDAR

House Bill No. 1632 -- Lafayette -- Removes certain requirements of mayoral candidates; removes prohibition against relatives of mayor or council members working for city; calls for vacancies in council to be filled after special election; places this act on ballot at next city election.

House Bill No. 1271 -- Health -- Exempts accredited utilization review agents from annual fee. Amends TCA 56-6-704.

House Bill No. 0748 -- Courts -- Repeals law on proceedings to keep the peace. Amends TCA, Title 38, Ch. 4.

***House Bill No. 0392 -- Alcoholic Beverages --** Permits establishment of microbreweries in Knox County under certain circumstances. Amends TCA, Title 57, Ch. 5.

House Bill No. 0528 -- Courts, General Sessions -- Designates Division IV of General Sessions Court of Davidson County as Environmental Court.

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On motion, House Bill No. 528 was made to conform with Senate Bill No. 956; the Senate Bill No. was substituted for the House Bill.

House Bill No. 0846 -- Municipal Government -- Allows municipalities to collect costs against landowners through filings of actions for debt. Amends TCA 6-54-113, 13-21-103.

On motion, House Bill No. 846 was made to conform with Senate Bill No. 881; the Senate Bill No. was substituted for the House Bill.

***House Resolution No. 0005 -- General Assembly, Review Or Ratification of Rules --** Ratifies revisions to Rules of Appellate Procedure.

***House Resolution No. 0006 -- General Assembly, Review Or Ratification of Rules --** Ratifies revisions to Rules of Juvenile Procedure.

***House Resolution No. 0007 -- General Assembly, Review Or Ratification of Rules --** Ratifies revisions to Rules of Evidence.

House Bill No. 1608 -- Williamson County -- Revises William County Hospital District. Amends Chapter 107, Private Acts of 1957, as amended.

House Bill No. 1630 -- Lookout Mountain -- Requires town judge to have same qualifications as are required by Tennessee Constitution, Article VI, Sec. 4, for judges of inferior courts. Amends Chapter 210, Private Acts of 1992.

House Joint Resolution No. 0148 -- Memorials, Congress -- Urges continuation and funding for Advanced Solid Rocket Motor Project.

House Resolution No. 0024 -- Memorials, Interns -- Jeff Pennington Powe.

House Joint Resolution No. 0192 -- Memorials, Sports -- Anthony Shelton.

House Joint Resolution No. 0194 -- Memorials, Academic Achievement -- MTSU Developmental Studies Department, John Champaign Award for Outstanding Developmental Program.

Senate Joint Resolution No. 0135 -- Memorials, Sports -- Jeff Norman, "Mr. Football".

Senate Joint Resolution No. 0138 -- Memorials, Sports -- Christian Brothers University men's basketball team.

Senate Joint Resolution No. 0139 -- Memorials, Death -- Sam Belote.

Senate Joint Resolution No. 0140 -- Memorials, Personal Occasion -- Oscar and Sue Nell Green, 75th wedding anniversary.

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Senate Joint Resolution No. 0141 -- Memorials, Personal Occasion -- Dr. and Mrs. James T. Jackson, 50th wedding anniversary.

OBJECTION -- CONSENT CALENDAR

Objection(s) was/were filed to the following on the Consent Calendar:

House Bill No. 392; by Reps. Armstrong and McDaniel.

House Joint Resolution No. 194; by Rep. Liles.

House Bill No. 1271; by Rep. Ridgeway.

House Resolution No. 5; by Rep. Buck.

Under the rules, House Bills Nos. 392 and 1271; also House Resolution No. 5 was/were placed at the foot of the Calendar for Wednesday, April 14, 1993.

House Joint Resolution No. 194 was requested to be held on the Clerk's desk.

Pursuant to Rule No. 50, Rep. Phillips moved that all House Bills having companion Senate Bills and are on the Clerk's desk be conformed and substituted for the appropriate House Bill, all Senate and House Bills on the Consent Calendar be passed on third and final consideration, all House Resolutions and House Joint Resolutions be adopted, and all Senate Joint Resolutions on the Consent Calendar be concurred in, which motion prevailed by the following vote:

Ayes.	96
Noes.	0
Present and not voting.	1

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Haun, Head, Henron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas, Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Riggsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 96.

Representatives present and not voting were: Hassell -- 1.

A motion to reconsider was tabled.

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REGULAR CALENDAR

*Senate Bill No. 0115 -- Sunset Laws -- Department of labor, June 30, 2001. Amends TCA, Title 4, Chs. 3, 29.

Further consideration of Senate Bill No. 115, previously considered on April 5, 1993, at which time it was reset to the Calendar for April 12, 1993.

Rep. Kernell moved that Senate Bill No. 115 be reset one week to the Calendar for Monday, April 19, 1993, which motion prevailed.

House Bill No. 1069 -- Education -- Prohibits salary schedules from limiting kinds of experience by state education employees. Amends TCA 49-3-306.

Rep. Davidson moved that House Bill No. 1069 be passed on third and final consideration.

Rep. Davidson moved adoption of Education Committee Amendment No. 1 as follows:

Amendment No. 1

Amend House Bill No. 1069 by deleting Section 2 of the printed bill and substituting instead the following:

SECTION 2. This act shall take effect July 1, 1993, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Rep. Davidson moved that House Bill No. 1069, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	94
Noes.	1

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Brooks, Brown, Buck, Byrd, Callicott, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas, Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 94.

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Representatives voting no were: Bragg -- 1.

A motion to reconsider was tabled.

*House Bill No. 0393 -- Adoption -- Makes procedural changes in adoption law when child to be adopted is by blood a child of one of persons petitioning for adoption. Amends TCA, Title 36, Ch. 1, Pt. 1.

Rep. Hargrove moved that House Bill No. 393 be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	90
Noes.	5

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McDaniel, McKee, Meyer, Miller, Mires, Moore, Odom, Owenby, Peroulas, Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Venable, Walley, West, Westmoreland, Whitson, Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 90.

Representatives voting no were: Brown, Duer, Haley, McAfee, Williams (Shelby) -- 5.

A motion to reconsider was tabled.

RECOGNITION

The Speaker recognized Rep. Bittle who introduced Texas Senator Phil Graham for remarks.

REGULAR CALENDAR, CONTINUED

House Bill No. 1375 -- Telecommunications -- Authorizes public service commission to set regulatory standards for 911 equipment; limits tort liability except for willful or wanton misconduct. Amends TCA, Title 7, Ch. 86.

Rep. Hargrove moved that House Bill No. 1375 be passed on third and final consideration.

Rep. Buck moved adoption of Judiciary Committee Amendment No. 1 as follows:

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Amendment No. 1

AMEND House Bill No. 1375 by deleting SECTION 3 in its entirety and renumbering SECTION 4 accordingly.

On motion, Amendment No. 1 was adopted.

Rep. Hargrove moved that House Bill No. 1375, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	96
Noes.	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 96.

A motion to reconsider was tabled.

House Bill No. 0821 -- Insurance, Health, Accident -- Enacts "Tennessee Health Care False Claims Act".

Rep. Herron moved that House Bill No. 821 be passed on third and final consideration.

Rep. Buck moved adoption of Judiciary Committee Amendment No. 1, seconded by Rep. Herron, as follows:

Amendment No. 1

Amend House Bill No. 821 by deleting SECTIONS 3, 4, and 5 in their entirety and substituting instead the following:

SECTION 3.(a) Any person who:

(1) Presents, or causes to be presented, to a health care insurer a claim for payment or approval knowing such claim is false or fraudulent;

(2) Makes, uses, or causes to be made or used, a

record or statement to get a false or fraudulent health insurance claim paid for or approved knowing such record or statement is false;

(3) Conspires to defraud a health care insurer by getting a claim allowed or paid knowing such claim is false or fraudulent; or

(4) Makes, uses, or causes to be made or used, a record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to a health care insurer, knowing such record or statement is false, is liable to the state for a civil penalty of not less than five thousand dollars (\$5,000) and not more than ten thousand (\$10,000) dollars, plus three (3) times the amount of damages which the health care insurer sustains because of the act of that person. However, if the court finds that:

(A) the person committing the violation of this subsection furnished officials of the state responsible for investigating false claims violations with all information known to such person about the violation within thirty (30) days after the date on which the defendant first obtained the information;

(B) such person fully cooperated with any state investigation of such violation; and

(C) at the time such person furnished the state with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this act with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation;

the court may assess not less than two (2) times the amount of damages which the health care insurer sustains because of the act of the person. A person violating this subsection shall also be liable for the costs of a civil action brought to recover any such penalty or damages.

(b) For purposes of this section, the terms "knowing" and "knowingly" mean that a person, with respect to information:

(1) has actual knowledge of the information;

(2) acts in deliberate ignorance of the truth or falsity of the information; or

(3) acts in reckless disregard of the truth or

falsity of the information, and no proof of specific intent to defraud is required.

SECTION 4.

(a)

(1) A person may bring a civil action for a violation of Section 2 for the person and for the state of Tennessee. The action shall be brought in the name of the state of Tennessee. The action may be dismissed only if the court and the attorney general or district attorney general give written consent to the dismissal and their reasons for consenting.

(2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the state. The complaint shall be filed in camera, shall remain under seal for at least sixty (60) days, and shall not be served on the defendant until the court so orders. The state may elect to intervene and proceed with the action within sixty (60) days after it receives both the complaint and the material evidence and information.

(3) The state may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph (2). Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until twenty (20) days after the complaint is unsealed and served upon the defendant.

(4) Before the expiration of the sixty (60) day period or any extensions obtained under paragraph (3), the state shall:

(A) proceed with the action, in which case the action shall be conducted by the state; or

(B) notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action.

(5) When a person brings an action under this subsection, no person other than the state may intervene or bring a related action based on the facts underlying the pending action.

(b)

(1) If the state proceeds with the action, it

shall have the primary responsibility for prosecuting the action, and shall not be bound by an act of the person bringing the action. Such person shall have the right to continue as a party to the action, subject to the limitations set forth in paragraph (2) of this subsection.

(2)

(A) The state may dismiss the action notwithstanding the objections of the person initiating the action if the person has been notified by the state of the filing of the motion and the court has provided the person with an opportunity for a hearing on the motion.

(B) The state may settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, such hearing may be held in camera.

(C) Upon a showing by the state that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the state's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation such as:

(i) limiting the number of witnesses the person may call;

(ii) limiting the length of the testimony of such witnesses;

(iii) limiting the person's cross-examination of witnesses; or

(iv) otherwise limiting the participation by the person in the litigation.

(D) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation.

(3) If the state elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action. If the state so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts (at the state's expense). When a person proceeds with the action, the court, without limiting the status and rights of the person initiating the action, may nevertheless permit the state to intervene at a later date upon a showing of good cause.

(4) Whether or not the state proceeds with the action, upon a showing by the state that certain actions of discovery by the person initiating the action would interfere with the state's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than sixty (60) days. Such a showing shall be conducted in camera. The court may extend the sixty (60) day period upon a further showing in camera that the state has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.

(5) Notwithstanding subsection (a), the state may elect to pursue its claim through any alternate remedy available to the state, including any administrative proceeding to determine a civil money penalty. If any such alternate remedy is pursued in another proceeding, the person initiating the action shall have the same rights in such proceedings as such person would have had if the action had continued under this section. Any finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this section. For purposes of the preceding sentence, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court of jurisdiction, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

(c)

(1) If the state proceeds with an action brought by a person under subsection (a), a person shall, subject to the second sentence of this paragraph, receive at least fifteen percent (15%) but not more than twenty-five percent (25%) of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed

to the prosecution of the action. Where the action is one which the court finds to be based primarily on disclosures of specific information (other than information provided by the person bringing the action) relating to allegations or transactions in a criminal, civil, or administrative hearing, report, audit, investigation, or from the news media, the court may award such sums as it considers appropriate, but in no case more than ten percent (10%) of the proceeds, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation. Any payment to a person under the first or second sentence of this paragraph shall be made from the proceeds. Any such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

(2) If the state does not proceed with an action under this section, the person bringing the action or settling the claim shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than twenty-five (25) percent and not more than thirty percent (30%) of the proceeds of the action or settlement and shall be paid out of such proceeds. Such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

(3) Whether or not the state proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of Section 2 upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the person would otherwise receive under paragraph (1) or (2) of this subsection, taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his or her role in the violation of Section 1, that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the state to continue the action.

(4) If the state does not proceed with the action and the person bringing the action conducts the action, the court shall award to the defendant its

reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

(d)

(1) In no event may a person bring an action under subsection (a) which is based upon allegations or transactions which are the subject of a civil suit or an administrative civil money penalty proceeding in which the state is already a party.

(2)

(A) No court shall have jurisdiction over an action under this section based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, audit, investigation, or from the news media, unless the action is brought by the attorney general or district attorney general or the person bringing the action is an original source of the information.

(B) For purpose of this paragraph, "original source" means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the state before filing an action under this section which is based on the information.

(e) The state is not liable for expenses which a person incurs in bringing an action under this section.

(f) Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this section, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status such employee would have had but for the discrimination, two (2) times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees. An employee may bring an action in the appropriate court for the relief provided in this subsection.

SECTION 4.

(a) A subpoena requiring the attendance of a witness at a trial or hearing conducted under Section 4 of this act may be served at any place in the United States.

(b) A civil action under Section 4 may not be brought:

(1) more than six (6) years after the date on which the violation of Section 2 is committed, or

(2) more than three (3) years after the date when facts material to the right of action are known or reasonably should have been known by the health care insurer with responsibility to act in the circumstances, but in no event more than ten (10) years after the date on which the violation is committed, whichever occurs last.

(c) In any action brought under Section 4, the state shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

(d) Notwithstanding any other provision of law, the Rules of Criminal Procedure, or the Rules of Evidence, a final judgment rendered in favor of the state in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall stop the defendant from denying the essential elements of the offense in any action which involves the same transaction as in the criminal proceeding and which is brought under subsection (a) or (b) of this Section or Section 3.

SECTION 5. Any action under Section 4 may be brought in any judicial district in which the defendant or, in the case of multiple defendants, any one defendant can be found, resides, transacts business, or in which any act proscribed by Section 3 occurred. A summons as required by the Rules of Civil Procedure shall be issued by the appropriate district court and served at any place within or outside the United States.

SECTION 6. This act shall take effect July 1, 1993, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Rep. Herron moved that House Bill No. 821, as amended, be passed on third and final consideration; which motion prevailed by the following vote:

Ayes.	96
Noes.	0

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Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas, Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 96.

A motion to reconsider was tabled.

House Bill No. 0830 -- Sentencing -- Prohibits parole eligibility review board from reviewing sentence of habitual offender whose triggering offense was violent. Amends TCA, Title 40, Ch. 35, Pt. 6.

On motion, House Bill No. 830 was made to conform with Senate Bill No. 175; the Senate Bill was substituted for the House Bill.

Rep. Herron moved that Senate Bill No. 175 be passed on third and final consideration.

Rep. Herron requested that Senate Bill No. 175 be moved down five places on the Calendar.

*House Bill No. 0991 -- Physicians and Surgeons -- Requires registration of each item of medical equipment, cost of which exceeds \$500,000 and for which certificate of need is not required, with health facilities commission. Amends TCA 68-11-106.

Rep. Herron moved that House Bill No. 991 be passed on third and final consideration.

Rep. Dixon moved adoption of Health and Human Resources Committee Amendment No. 1, seconded by Rep. Herron, as follows:

Amendment No. 1

Amend House Bill No. 991 by deleting Section 1 in its entirety, and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 68-11-106, is amended by adding the following language as a new, appropriately designated subsection:

() The owners of the following types of

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equipment shall register such equipment with the health facilities commission: computerized axial tomographers, extracorporeal lithotripters, magnetic resonance imagers. The registration shall be in a manner and on forms prescribed by the health facilities commission and shall include ownership, location, and the expected useful life of such equipment. Such registration shall occur within ninety (90) days of acquisition of the equipment. Each person owning such equipment on the effective date of this act shall have ninety (90) days from October 1, 1993, to comply with the requirements of this subsection.

Rep. Herron moved that House Bill No. 991 be reset to the Calendar for Wednesday, April 14, 1993, which motion prevailed.

House Bill No. 1301 -- Courts, General Sessions -- Enacts "General Sessions Court Reform Act of 1993". Amends TCA, Titles 16, 19, 40.

Rep. Herron moved that House Bill No. 1301 be reset one week to the Calendar for Monday, April 19, 1993, which motion prevailed.

House Bill No. 1114 -- Election Laws -- Authorizes use of electronic transmission of voting materials for military and overseas personnel. Amends TCA, Title 2.

On motion, House Bill No. 1114 was made to conform with Senate Bill No. 413; the Senate Bill was substituted for the House Bill.

Rep. Fowlkes moved that Senate Bill No. 413 be passed on third and final consideration.

On motion, Rep. Love withdrew State and Local Government Committee Amendment No. 1.

Rep. Chumney moved to adopt Amendment No. 2 as follows:

Amendment No. 2

Amend Senate Bill No. 413 by adding the following new sections immediately preceding the last section and by renumbering the subsequent section accordingly:

Section _____. Tennessee Code Annotated, Section 2-6-112(c), is amended by adding the following at the end of the subsection:

An application submitted pursuant to this section may be transmitted to the county election commission office and received by facsimile machine.

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Section _____ Tennessee Code Annotated, Section 2-6-112(f), is amended by adding the following at the end of the subsection:

Provided, however, a ballot received under this section may be returned by facsimile transmission in accordance with the most recent department of defense voting assistance guide. In such case, the ballot envelope need not be returned. Provided, however, the voter shall sign the ballot itself to allow a signature comparison to be made.

On motion, Amendment No. 2 was adopted.

Rep. Fowlkes moved that Senate Bill No. 413, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	97
Noes.	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas, Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 97.

A motion to reconsider was tabled.

MESSAGE FROM SENATE April 12, 1993

MR. SPEAKER: I am directed to request the return of House Bill No. 648, for further consideration.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

HOUSE BILL RETURNED

The Clerk returned House Bill No. 648 to the Senate as requested.

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REGULAR CALENDAR, CONTINUED

House Bill No. 1538 -- County Officers -- Establishes minimum competency standards for constables; requires attendance at in-service education courses throughout year. Amends TCA, Title 8, Ch. 10.

Rep. Phelan moved that House Bill No. 1538 be reset to the Calendar for Wednesday, April 14, 1993, which motion prevailed.

*Senate Bill No. 0175 -- Sentencing -- Prohibits parole eligibility review board from reviewing sentence of habitual offender whose triggering offense was violent. Amends TCA, Title 40, Ch. 35, Pt. 6.

Further consideration of Senate Bill No. 175, previously considered on today's Calendar.

Rep. Herron moved that Senate Bill No. 175 be passed on third and final consideration.

Rep. Buck moved adoption of Judiciary Committee Amendment No. 1, seconded by Rep. Herron, as follows:

Amendment No. 1

Amend Senate Bill No. 175 by deleting from the amendatory language of SECTION 1 the language "the offender's triggering offense was an offense" and substituting instead the language "if any of the offenses upon which the offender's conviction as an habitual offender was based was an offense".

On motion, Amendment No. 1 was adopted.

Rep. Herron moved to adopt Amendment No. 2 as follows:

Amendment No. 2

Amend Senate Bill No. 175 by deleting the amendatory language of Section 1 and by substituting instead the following:

The board's review authority shall not include the sentence of an offender convicted as an habitual offender if the offender's triggering offense was an offense against the person. With respect to robbery offenses, "offense against the person" means a robbery accomplished by the use of a deadly weapon or any robbery in which the victim suffered bodily injury.

On motion, Amendment No. 2 was adopted.

Rep. U. Jones moved to adopt Amendment No. 3 as follows:

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Amendment No. 3

Amend Senate Bill No. 175 by adding the following after the first sentence of Section 1 of the printed bill:

The board review authority shall not include authority to give credit toward early release or parole of an offender convicted of first or second degree murder.

On motion, Amendment No. 3 was adopted.

Rep. Herron moved that Senate Bill No. 175, as amended, be passed on third and final consideration.

Rep. Haley moved the previous question, which motion failed by the following vote:

Ayes.	51
Noes.	44
Present and not voting.	1

Representatives voting aye were: Allen, Anderson, Bell, Bittle, Boyer, Buck, Byrd, Callicott, Chiles, Cole (Carter), Cole (Dyer), Crain, Cross, Davidson, Davis, Fisher, Gunnels, Haley, Halteman, Harwell, Hassell, Haun, Hillis, Huskey, Johnson, Joyce, Kisber, Lewis, Liles, Love, McAfee, McDaniel, Meyer, Moore, Napier, Owenby, Peroulas Draper, Pinion, Ramsey, Ridgeway, Rigsby, Shirley, Stamps, Stockburger, Stulce, Venable, Westmoreland, Whitson, Williams (Union), Winningham, Wix, Wood -- 51.

Representatives voting no were: Armstrong, Arriola, Bragg, Brooks, Brown, Chumney, Clark, Coffey, Collier, DeBerry, Dixon, Duer, Ferguson, Fowlkes, Givens, Hargrove, Head, Herron, Jones R (Shelby), Jones U (Shelby), Kent, Knight, McKee, Miller, Mires, Odom, Phelan, Phillips, Pruitt, Purcell, Rhinehart, Rinks, Ritchie, Robinson, Severance, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Walley, West, Williams (Shelby), Williams (Williamson), Windle -- 44.

Representatives present and not voting were: Kernell -- 1.

Rep. Herron moved that Senate Bill No. 175 be reset one week to the Calendar for Monday, April 19, 1993, which motion prevailed.

House Bill No. 1297 -- Appropriations -- Appropriates up to \$50,000 to John R. Robb for research and development of voting machines for blind.

Rep. Brooks moved that House Bill No. 1297 be passed on third and final consideration.

Rep. Bragg moved adoption of Finance, Ways and Means Committee Amendment No. 1 as follows:

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Amendment No. 1

Amend House Bill No. 1297 by adding the following as a new section to precede the effective date section:

Section _____. Implementation of the provisions of this act shall be subject to funding being provided in the 1993-1994 general appropriations bill. Such implementation shall be further subject to the approval of the commissioner of finance and administration.

On motion, Amendment No. 1 was adopted.

Rep. Brooks moved to adopt Amendment No. 2 as follows:

Amendment No. 2

Amend House Bill No. 1297 by deleting Section 1 of the printed bill in its entirety and by substituting instead the following new language:

SECTION 1. In order to continue research into and the development of a satisfactory voting machine for use by blind voters, there is hereby appropriated a sum of fifty thousand dollars (\$50,000) to the Loyal Order of the Blind, Inc.

Rep. Brooks requested that House Bill No. 1297 be moved down five places on the Calendar.

House Bill No. 1299 -- Mass Transit -- Directs department of transportation to investigate and report to general assembly on statewide program of transportation services for blind and disabled.

On motion, House Bill No. 1299 was made to conform with Senate Bill No. 679; the Senate Bill was substituted for the House Bill.

Rep. Brooks moved that Senate Bill No. 679 be passed on third and final consideration.

On motion, Rep. Robinson withdrew Transportation Committee Amendment No. 1.

Rep. Brooks moved that Amendment No. 2 be withdrawn, which motion prevailed.

Rep. Brooks moved that Amendment No. 3 be withdrawn, which motion prevailed.

Rep. Brooks moved that Senate Bill No. 679 be passed on third and final consideration.

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Rep. Severance moved the previous question, which motion prevailed.

Rep. Brooks moved that Senate Bill No. 679 be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	95
Noes.	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 95.

A motion to reconsider was tabled.

*House Bill No. 0482 -- Criminal Offenses -- Increases penalty for disseminating smoking material or smokeless tobacco products to minors from Class C to Class A misdemeanor. Amends TCA 39-15-408.

Rep. Liles moved that House Bill No. 482 be passed on third and final consideration.

Rep. Bell moved adoption of Agriculture Committee Amendment No. 1 as follows:

Amendment No. 1

Amend House Bill No. 482 is amended by adding the following language as a new section immediately preceding the effective date section and by renumbering the effective date section accordingly:

SECTION ____ Tennessee Code Annotated, Section 39-15-408, is further amended by adding the following language as a new subsection immediately preceding the penalty subsection and by renumbering such subsection accordingly:

() It is an offense to persuade, entice, send, or assist a minor to purchase, acquire, receive or attempt to purchase, acquire or receive smoking

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material, smoking paraphernalia, or any smokeless tobacco product.

On motion, Amendment No. 1 was adopted.

Rep. Bell moved adoption of Agriculture Committee Amendment No. 2, seconded by Rep. Liles, as follows:

Amendment No. 2

Amend House Bill No. 482 by deleting Section 1 of the printed bill in its entirety and by substituting instead the following new language:

SECTION ____ Tennessee Code Annotated, Section 39-15-408, is amended by deleting subsection (b) in its entirety and by substituting instead the following new language:

() A violation of this section involving smoking material or a smokeless tobacco product is a Class A misdemeanor, punishable only by a fine not to exceed two thousand five hundred dollars (\$2,500). A violation of this section involving smoking paraphernalia is a Class C misdemeanor.

On motion, Amendment No. 2 was adopted.

Rep. Liles moved that House Bill No. 482 as amended, be passed on third and final consideration.

Rep. Clark moved to re-refer House Bill No. 482 to Judiciary Committee.

Rep. Liles moved to table the motion to re-refer, which motion prevailed by the following vote:

Ayes.	59
Noes.	33
Present and not voting.	1

Representatives voting aye were: Allen, Anderson, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Byrd, Callicott, Chiles, Chumney, Coffey, Cole (Carter), Davidson, DeBerry, Fowlkes, Givens, Gunnels, Halteman, Harwell, Hargrove, Hassell, Head, Herron, Hillis, Huskey, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Lewis, Liles, McAfee, McDaniel, McKee, Mires, Odom, Owenby, Peroulas, Draper, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Tindell, Walley, West, Williams (Union), Winningham, Wood, Mr. Speaker Naifeh -- 59.

Representatives voting no were: Armstrong, Arriola, Buck, Clark, Cole (Dyer), Collier, Crain, Cross, Dixon, Duer, Ferguson,

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Fisher, Haley, Haun, Johnson, Knight, Miller, Moore, Napier, Phelan, Phillips, Pinion, Rinks, Ritchie, Turner (Hamilton), Turner (Shelby), Venable, Westmoreland, Whitson, Williams (Shelby), Williams (Williamson), Windle, Wix -- 33.

Representatives present and not voting were: Love -- 1.

Rep. Severance moved the previous question, which motion prevailed.

Rep. Liles moved that House Bill No. 482, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	71
Noes.	18
Present and not voting.	6

Representatives voting aye were: Allen, Anderson, Armstrong, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Byrd, Callicott, Chiles, Chumney, Coffey, Cole (Carter), Cole (Dyer), Cross, DeBerry, Dixon, Duer, Ferguson, Fowlkes, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Herron, Hillis, Huskey, Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Liles, McAfee, McDaniel, McKee, Mires, Odom, Owenby, Peroulas Draper, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wood, Mr. Speaker Naifeh -- 71.

Representatives voting no were: Arriola, Buck, Clark, Collier, Crain, Davidson, Haun, Head, Jones R (Shelby), Miller, Moore, Phelan, Phillips, Rinks, Turner (Hamilton), Turner (Shelby), Venable, Wix -- 18.

Representatives present and not voting were: Fisher, Johnson, Lewis, Love, Napier, Pinion -- 6.

A motion to reconsider was tabled.

House Bill No. 1043 -- Annexation -- Prohibits, under certain circumstances, annexation of property of regional airport authority. Amends TCA, Title 6, Ch. 51.

On motion, House Bill No. 1043 was made to conform with Senate Bill No. 1180; the Senate Bill was substituted for the House Bill.

Rep. Allen moved that Senate Bill No. 1180 be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	82
Noes.	4
Present and not voting.	10

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Representatives voting aye were: Allen, Anderson, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman Harwell, Hassell, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Mires, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Windle, Winningham, Wix, Wood -- 82.

Representatives voting no were: Armstrong, DeBerry, Moore, Williams (Williamson) -- 4.

Representatives present and not voting were: Brown, Dixon, Hargrove, Haun, Head, Kernell, Pinion, Rigsby, Rinks, Mr. Speaker Naifeh -- 10.

A motion to reconsider was tabled.

House Bill No. 0755 -- Divorce and Annulment -- Permits modification of rehabilitative alimony award upon showing of substantial and material change of circumstances. Amends TCA 36-5-101.

Further consideration of House Bill No. 755, previously considered on April 5 and 7, 1993, at which time it was reset to the Calendar for April 12, 1993.

On motion, House Bill No. 755 was made to conform with Senate Bill No. 439; the Senate Bill was substituted for the House Bill.

Rep. Kisber moved that Senate Bill No. 439 be passed on third and final consideration.

On motion, Rep. Buck withdrew Judiciary Committee Amendment No. 1.

Rep. Williams (Shelby) moved to adopt Amendment No. 2, seconded by Rep. Kisber, as follows:

Amendment No. 2

Amend Senate Bill No. 439 by adding the following language at the end of the amendatory language of Section 2:

The recipient of the support and maintenance shall have the burden of proving that all reasonable efforts at rehabilitation have been made and have been unsuccessful.

On motion, Amendment No. 2 was adopted.

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Rep. Kisber moved that Senate Bill No. 439, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	95
Noes.	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Severance, Shirley, Stamps, Stockburger, Stuloe, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 95.

A motion to reconsider was tabled.

House Bill No. 1297 -- Appropriations -- Appropriates up to \$50,000 to John R. Robb for research and development of voting machines for blind.

Further consideration of House Bill No. 1297, previously considered on today's Calendar.

Rep. Brooks renewed the motion to adopt Amendment No. 2, seconded by Rep. Purcell, which motion prevailed.

Rep. Brooks moved that House Bill No. 1297, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	62
Noes.	16
Present and not voting.	14

Representatives voting aye were: Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chumney, Clark, Cole (Dyer), Collier, Crain, Cross, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Hassell, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, Miller, Mires, Moore, Napier, Owenby, Phelan, Phillips, Pinion, Pruitt, Purcell, Ridgeway, Rigsby, Rinks, Robinson, Tindell, Turner (Hamilton), Turner (Shelby), West, Whitson, Williams (Shelby), Williams (Williamson), Windle, Wood -- 62.

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Representatives voting no were: Allen, Chiles, Givens, Gunnels, Haley, Haun, Joyce, McAfee, Meyer, Ramsey, Severance, Shirley, Stöckburger, Stulce, Venable, Westmoreland -- 16.

Representatives present and not voting were: Coffey, Davidson, Halteman, Harwell, Hargrove, McDaniel, McKee, Peroulas, Draper, Rhinehart, Ritchie, Stamps, Walley, Williams (Union), Winningham, Mr. Speaker Naifeh -- 14.

A motion to reconsider was tabled.

***House Bill No. 0381 -- Employees, Employers -- Creates board of employee assistance professionals certification and licensure; requires employee assistance professionals to be licensed. Amends TCA, Title 4, Ch. 29; Title 62.**

Further consideration of House Bill No. 381, previously considered on April 7, 1993, at which time it was reset to the Calendar for April 12, 1993.

Rep. West moved that House Bill No. 381 be passed on third and final consideration.

Rep. Clark moved adoption of Consumer and Employees Affairs Committee Amendment No. 1, seconded by Rep. West, as follows:

Amendment No. 1

Amend House Bill No. 381 by deleting all the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 62, is amended by adding Sections 2 through 19 of this act as a new chapter thereto.

SECTION 2. As used in this act, unless the context requires otherwise:

(1) "Board" means the Tennessee board of employee assistance professionals;

(2) "Consultation" means the act of giving expert advice on the role of an employee assistance professional in assisting troubled employees;

(3) "Department" means the department of labor; and

(4) "Employee assistance professional" means a person who provides services in a program designed to assist in identification and resolution of job performance problems in the workplace.

SECTION 3. (a) There is hereby created the board of

employee assistance professionals.

(b) The board shall consist of five (5) members who are residents of Tennessee to be appointed by the governor.

(c) Appointments to the board shall be as follows:

(1) Two (2) members shall be independent, nationally certified and state licensed employee assistance professionals who shall serve for terms of one (1) year and three (3) years respectively;

(2) One (1) person, who is not directly or indirectly engaged in the employee assistance profession, shall serve for a term of two (2) years;

(3) One (1) licensed employee assistance professional shall serve for a term of four (4) years; and

(4) One (1) licensed employee assistance professional shall serve for a term of five (5) years.

(d) The licensed employee assistance professionals appointed pursuant to subdivisions (c)(3) and (c)(4) must have been engaged in active practice for no less than five years.

(e) The Tennessee Chapters of the Employee Assistance Professionals Association shall submit a list of at least three (3) nominees for each appointment or vacancy to be filled and the governor may make appointments from such list.

(f) All board members, except the member who is not directly or indirectly engaged as a employee assistance professional, shall be duly licensed or eligible to be licensed by the board. Subsequent appointees to the board shall possess the professional qualifications required by their predecessors and shall be appointed to five (5) year terms.

(g) Members shall serve until their successors are appointed and qualified. Any vacancy occurring on the board shall be filled by the governor for the balance of the unexpired term. A board member who has served a five (5) year term shall not be eligible for reappointment during the one year period following the appointment of such member's successor.

(h) In making appointments to the board, the governor shall strive to insure that at least one person serving on the board is sixty (60) years of age or older and that at least one person serving on the board is a member of a racial minority.

(i) For each day engaged in the business of the board, members shall receive as compensation fifty dollars (\$50.00) and shall also receive actual expenses to be paid in accordance with the comprehensive travel regulations promulgated by the commissioner of finance and administration and approved by the attorney general.

(j) The members of the board shall annually elect a chairman and secretary.

(k) The board shall meet as frequently as shall be reasonably necessary to implement the provisions of this act. Three (3) or more members of the board shall constitute a quorum for the purpose of transacting board business.

(l) For administrative purposes, the board shall be attached to the department of labor.

SECTION 4. The board shall have the power and duty:

(1) To approve educational programs, to establish and prescribe courses, and to establish and prescribe the curricula and minimum standards for training, as required to prepare persons for licensure under this act;

(2) To promulgate rules and regulations governing the issuance, renewal, suspension and revocation of licenses;

(3) To establish minimum standards governing the activities and operations of licensed employee assistance professionals services;

(4) To issue licenses;

(5) To collect fees; and

(6) To assess civil penalties as provided in this part.

SECTION 5. (a) To receive a license, an applicant shall have:

(1) A high school degree or G.E.D.; and

(2) Three (3) years full time supervised internship, or three thousand (3,000) hours of supervised internship work as well as board approved educational requirements.

(b) To meet the internship requirements an applicant must enter into a board approved contractual agreement with a licensed employee assistance professional, who will

provide supervision. Such person will be titled as an employee assistance intern, during which time such person must be held under the same ethical code as those who are licensed. Upon failure to uphold ethical conduct the intern will be subject to board disciplinary action, until such requirements are met.

SECTION 6. (a) Any person desiring to be licensed shall apply to the board on a form approved by the board and accompanied by the appropriate fee. The application shall contain such information as the board deems necessary for evaluation.

(b) Renewal of any license issued under the provisions of this act may be accomplished by paying an appropriate fee, submitting a renewal application, and otherwise complying with the applicable rules of the board.

SECTION 7. All persons who are licensed as employee assistance professionals shall renew their licenses as follows:

(1) On or before December 1 of each year, the board shall mail an application for renewal to every person holding a valid current license.

(2) Each applicant shall complete and return such application to the board on or before January 1 of each year.

(3) License renewal fees, in an amount established by the board, shall accompany each renewal application.

(4) If any holder of a license fails to renew his license within sixty (60) days after registration becomes due the license of such person shall be automatically revoked without further notice or hearing unless specifically requested.

SECTION 8. (a) Any employee assistance professional licensed or certified in good standing in another state and based in an jurisdiction outside of Tennessee, but rendering services in Tennessee, must obtain a Tennessee license to practice employee assistance services in Tennessee. An applicant currently nationally certified or licensed in another state who meets the licensure requirements approved by the board shall be eligible for a Tennessee license.

(b) A license shall be issued when the applicant who is licensed or certified in good standing in another state:

(1) resides in Tennessee or is employed by a service operating in Tennessee; and

(2) submits an application with the appropriate fee to the board.

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(c) Licenses must be obtained by each individual and not as a company.

SECTION 9. (a) Whenever the board has reason to believe that a violation of this part, the regulations promulgated thereunder, or an order of the board, is occurring or is about to occur, the board may initiate any of the following enforcement measures:

(1) The board may initiate a civil action in the chancery court of Davidson county or the county in which the alleged offender resides or does business. In such action the board may seek and the court is authorized to grant any form of relief, injunctive and other, available at law or equity;

(2) If the activity involved appears to be a criminal offense, the board shall refer the matter to the appropriate district attorney general for prosecution;

(3) With respect to any person required to be licensed the board may assess a civil penalty against such person in an amount not to exceed fifty dollars (\$50.00) per day for each violation. In assessing the civil penalty the board shall consider the following:

(A) Whether the amount imposed will be a substantial economic deterrent to the violator;

(B) The circumstances leading to the violation of the board's order;

(C) The severity of the violation and the risk of harm to the employee; and

(D) Economic benefits gained by the violator as a result of non-compliance..

(b) Civil penalties assessed by the board pursuant to subdivision (a)(3) are final thirty (30) days after the date the assessment is served unless the alleged violator, within that time, seeks review by the board. If the violator fails to pay an assessment when it becomes final, the board may apply to the appropriate court for a judgment and seek execution of such judgment.

SECTION 10. Hearings before the board on enforcement or disciplinary actions shall be conducted in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

SECTION 11. (a) No person shall, by verbal claim, advertisement, letterhead, card, or in any other way represent himself to be a provider of employee assistance services unless such person possesses a valid state license issued pursuant to

the provisions of this act.

(b) Violation of subsection (a) is a class C misdemeanor.

SECTION 12. (a) As used in this act, employee assistance professional means a licensed employee assistance professional who is qualified to provide employee assistance program services for employees and their families designed to assist in the identification and resolution of productivity problems associated with employees impaired by personal concerns including health related, marital, family, financial, alcohol, drug, legal, emotional stress, or other personal concerns which may adversely affect employee job performance.

(b) The specific core activities of employee assistance professionals include:

(1) consultation and training to appropriate persons in the identification and resolution of job-performance issues related to the aforementioned employee personal concerns; and

(2) confidential, appropriate and timely problem-assessment service; referrals for appropriate diagnosis; treatment and assistance; the formation of linkages between workplace and community resources that provide such services; and follow-up services for employees who use those services.

SECTION 13. Until January 1, 1995, a person who has received nationally-recognized professional certification as an employee assistance professional may apply to the board for licensure and, upon proof of such certification and upon payment of a fee as set by the board, such person shall receive a license as an employee assistance professional.

SECTION 14. The board shall have the power to deny, suspend, or revoke any license, or to otherwise discipline an applicant or holder of a license who is found guilty by the board of one (1) or more of the following:

(1) Willful or repeated violation of any provision of this act or any rules of the board;

(2) Fraud or deceit in procuring or attempting to procure a license, presenting to the board dishonest or fraudulent evidence of qualification, or fraud or deception in the process of examination for the purpose of securing a license;

(3) Willful failure to display a license;

(4) Fraud, deception, misrepresentation, dishonest or illegal practices in or connected with the practice of employee assistance;

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(5) Circulating knowingly untrue, fraudulent, misleading or deceptive advertising;

(6) Gross malpractice, or a pattern of continued or repeated malpractice, ignorance, negligence or incompetence in the course of practice;

(7) Unprofessional or unethical conduct, or engaging in practices in connection with the practice of employee assistance which are in violation of the standards of professional conduct prescribed by the board;

(8) Conduct reflecting unfavorably upon the profession of employee assistance;

(9) Willful making of any false statement as to material in any oath or affidavit which is required by the act;

(10) Conviction of a felony under federal court or in the courts of Tennessee or any other state five (5) years prior to applying for a license or while licensed;

(11) Permitting or allowing another to use his license for the purpose of providing or offering employee assistance services;

(12) Engaging in practice under a false or assumed name, or the impersonation of another practitioner of a like, similar or different name;

(13) Failure of an employee assistance professional to inform clients fully about the limits of confidentiality in a given situation, the purposes for which information is obtained, and how it may be used;

(14) Referring a client to further obtain services from any source that would directly or indirectly financially profit the referring licensed employee assistance professional;

(15) Denial of clients' reasonable requests for access to any records concerning them. When providing clients with access to records, the employee assistance professional shall take due care to protect the confidences of others contained in those records;

(16) Failure to obtain informed consent of clients before taping, recording, or permitting third party observation of their activities;

(17) Failure to clarify the nature and directions of an employee assistance professional's loyalties and responsibilities as mandated by law and as mandated by their contracted agreement with a company;

(18) Failure to fully inform consumers as to the purpose and nature of an evaluative research, treatment, educational or training procedure, and freely acknowledging that clients, students, or participants in research have freedom of choice with regard to participation;

(19) Failure to attempt to terminate a consulting relationship when it is reasonably clear that the relationship is not benefiting the consumer; employee assistance professionals who find that their services are being used by employers beyond their contractual agreement, or beyond their licensed qualification, in a way that is not beneficial to the participants, have the responsibility to make their observations known to the responsible persons and to propose modification or termination of the engagement. They may seek advice or clarification from the board in regards to such matters within a reasonable amount of time without fear of losing their license; or

(20) Employee assistance professionals who through a contractual agreement consent to provide services that they are not licensed for, such as prolonged therapy or other such treatment.

SECTION 15. The board may on its own motion investigate any report indicating that a license holder is or may be in violation of the provisions of this act. Any person who in good faith reports to the board any information that a license holder is or may be in violation of any provision of this act shall not be subject to suit for civil damages as a result thereof.

SECTION 16. The confidential relations and communications between a licensed employee assistance professional and client are the same as those provided by law for licensed psychologists, psychological examiners, physicians, and social workers.

SECTION 17. Nothing in this act shall be construed to prevent qualified members of other professional groups as defined by the board, including, but not limited to, licensed psychologists, licensed psychological examiners, licensed clinical social workers, nurses, physicians, attorneys at law, or members of the clergy, from doing or advertising that they perform the work of an employee assistance professional consistent with the accepted standards of their respective professions; provided, however, that no such person shall violate the provisions of Section 11 of this act.

SECTION 18. Nothing in this act shall be construed as permitting any person licensed as an employee assistance professional to engage in the practice of "licensed psychological examiners," "licensed psychologist," "certified master social worker," or "licensed independent practitioner of social work," as defined by the laws of this state.

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SECTION 19. The board is authorized to promulgate, in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, such rules and regulations that are necessary to implement the provisions of this act.

SECTION 20. Tennessee Code Annotated, Section 4-29-215(a), is amended by adding a new item thereto, as follows:

() Board of employee assistance professionals, created by Section 3 of this act;

SECTION 21. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 22. Implementation of the provisions of this act shall be subject to funding being provided in the 1993-1994 general appropriations bill.

SECTION 23. For the purpose of appointing members of the board and for promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect January 1, 1994, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Rep. Walley moved to adopt Amendment No. 2, seconded by Rep. West, as follows:

Amendment No. 2

AMEND House Bill No. 381 by deleting Section 11 in its entirety and by substituting instead the following:

SECTION 11. No person shall, by verbal claim, advertisement, letterhead, card, or in any other way represent such person to be a licensed employee assistance professional or provide employee assistance services as defined in Section 12 of this act unless such person possesses a valid state license issued pursuant to the provisions of this act.

AND FURTHER AMEND by deleting in Section 17 the words and punctuation "professions; provided, however, that no such person shall violate the provisions of Section 11 of this act" and by substituting instead the language and punctuation "profession".

On motion, Amendment No. 2 was adopted.

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Rep. Bragg moved to adopt Amendment No. 3, seconded by Rep. West, as follows:

Amendment No. 3

AMEND House Bill No. 381 by adding the following as new Section 19 and by renumbering the existing Section 19 and subsequent sections accordingly:

SECTION 19. Nothing in this act shall be construed to prevent a member of a community mental health center staff, as defined by title 56, from advertising, claiming, working, or in other way representing such member to be an employee assistance professional consistent with the standards of a mental health center.

On motion, Amendment No. 3 was adopted.

Rep. Dixon moved to adopt Amendment No. 4, seconded by Rep. West, as follows:

Amendment No. 4

Amend House Bill No. 381 by adding the following sentence at the end of the effective date section:

Provided however, the provisions of this act shall not be required to be implemented in any county with the population in excess of seven hundred thousand (700,000) until January 1, 1995.

On motion, Amendment No. 4 was adopted.

Rep. West moved to adopt Amendment No. 5 as follows:

Amendment No. 5

Amend House Bill No. 381 by adding the following as a new section immediately preceding the effective date section and by renumbering the effective date section accordingly:

Section ____ Implementation of the provisions of this act shall be subject to the funding being provided in the general appropriations act.

On motion, Amendment No. 5 was adopted.

Rep. West requested that House Bill No. 381 be moved down five places on the Calendar.

*House Bill No. 1148 -- Mental Illness -- Adds local hospital

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administrators as persons with whom sheriffs may consult in creating alternative policy for transportation of mentally ill persons. Amends TCA 33-6-103.

Rep. Walley moved that House Bill No. 1148 be passed on third and final consideration.

Rep. Dixon moved adoption of Health and Human Resources Committee Amendment No. 1, seconded by Rep. Walley, as follows:

Amendment No. 1

Amend House Bill No. 1148 by deleting all the language following the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 33-6-103, is amended by adding the following to subsection (d):

If the evaluation of the person takes place in an area of the state that has in place a community-based screening agency designated by the commissioner under Chapter 2, Part 6, of this Title and the proposed placement of the person is a state-operated mental health institute or treatment resource under contract with the state to provide inpatient bed capacity, then, if the evaluating physician is not an agent of the community-based screening agency, transportation of the person to the mental health institute may not begin without the written concurrence of the community-based screening agency with the conclusion of the physician that the person is subject to admission under subsection (c). The written concurrence must be, in content and form, a certificate of need.

SECTION 2. Tennessee Code Annotated, Section 33-6-103, is amended by deleting subsection (e) and substituting the following:

(e) If the person is subject to admission under subsection (c) and is already at the hospital or treatment resource in which it is proposed to place the person, further proceedings shall be under subsection (g). If the person is subject to admission under subsection (c), then the individual(s) who have certified the person's eligibility for admission shall give the original(s) of the certificate(s) to the transportation agent for the area and turn the person over to the custody of the transportation agent who has the duty to transport the person to a hospital or treatment resource which has available accommodations for admitting the person.

Officials and agencies included in this subsection within the county or area whose expertise or resources may be affected by transportation of persons under this section shall by agreement designate a transportation agent or transportation agents for a county or area. On the effective date of this act, the county executive for a county or county executives for an area shall notify the following of a meeting to develop a plan for transportation of persons from the county or area: hospital administrators whose hospitals evaluate persons under this section; the executive director of the community-based screening agency serving the area, and if there is none, then the executive director of a community mental health center serving the area; the sheriff; the chief executive officer of any ambulance service; the superintendent of the regional, state-operated mental health institute; and the superintendent of a treatment resource under contract with the state to provide inpatient bed capacity. Designation of a transportation agent or agents shall be in force by October 1, 1993. Agreements to designate transportation agents may be amended each year but there must always be a transportation agent. Nothing in this act shall prohibit the involvement or incorporation of caregivers in the transportation plan. Any agreement to designate a transportation agent must take into account funding of the transportation agent as well as which characteristics of a particular transportation agent are best suited to the different clinical conditions of persons who are eligible for admission under this section. The development of the plan shall specifically provide for transportation by the sheriff of persons who have been determined to be a threat to others by the physician evaluating the person to be transported. If the plan designates persons to be transported by an ambulance service, the plan may allow for transportation by the ambulance service to be in a motor vehicle other than an ambulance. If the parties in a county or area are unable to reach agreement on a transportation agent, then the county executive shall designate a transportation agent utilizing available local government resources. Once a transportation plan has been agreed upon, the county executives shall notify the officials and agencies listed above of the plan and its terms. The plan and its implementation are discretionary functions under Section 29-20-205.

Before the transportation agent begins to transport the person, the transportation agent shall notify the hospital or treatment resource to which it is proposed to place the person, telling it where the transportation agent is and the best estimate of anticipated time of arrival at the hospital or

treatment resource; then the transportation agent may transport the person. If the transportation agent has complied with this paragraph and arrives at the hospital or treatment resource within the anticipated time of arrival, then the transportation agent must remain at the hospital or treatment resource only long enough for the person to be evaluated for admission under subsection (g), but not longer than one hour and forty-five minutes. After this time, the person becomes the responsibility of the evaluating hospital or treatment resource. If the transportation agent has not arrived within the anticipated time of arrival, the transportation agent must remain at the hospital or treatment resource as long as it takes to complete the evaluation under subsection (g).

The provisions of this subsection shall not apply in any county having a population in excess of eight hundred thousand (800,000), according to the 1990 federal census or any subsequent federal census.

SECTION 3. Tennessee Code Annotated, Section 33-6-103, is amended by deleting the second sentence of subsection (g) and substituting the following:

If the person is not subject to admission and the transportation agent is under a duty to remain at the hospital or treatment resource under subsection (e), then the transportation agent shall return the persons to the county.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, Amendment No. 1 was adopted.

Rep. Walley moved that House Bill No. 1148, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	95
Noes.	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce,

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Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 95.

A motion to reconsider was tabled.

House Bill No. 1263 -- Personnel Recruiting Services -- Removes requirement for registration for employers who contract for outplacement services from single source and fully pay for services. Amends TCA 62-31-102.

On motion, House Bill No. 1263 was made to conform with **Senate Bill No. 921**; the Senate Bill was substituted for the House Bill.

Rep. L. Turner (Shelby) moved that **Senate Bill No. 921** be passed on third and final consideration.

On motion, Rep. Clark withdrew Consumer and Employee Affairs Committee Amendment No. 1.

Rep. L. Turner (Shelby) moved that **Senate Bill No. 921** be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	96
Noes.	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisher, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 96.

A motion to reconsider was tabled.

House Bill No. 1292 -- Contractors -- Reduces time for appointment of person designated by corporation or partnership to take contractor's examination from 18 to 3 months. Amends TCA 62-6-115.

On motion, House Bill No. 1292 was made to conform with **Senate Bill No. 1415**; the Senate Bill was substituted for the House Bill.

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Rep. Severance moved that Senate Bill No. 1415 be passed on third and final consideration.

Rep. Haun moved the previous question, which motion prevailed by the following vote:

Ayes.	82
Noes.	9

Representatives voting aye were: Allen, Anderson, Armstrong, Bell, Bittle, Boyer, Bragg, Brown, Buck, Byrd, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, Ferguson, Fisher, Fowlkes, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas, Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Tindell, Turner (Hamilton), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Windle, Winningham, Wix, Wood -- 82.

Representatives voting no were: Arriola, Brooks, Callicott, DeBerry, Ramsey, Rigsby, Rinks, Thompson, Turner (Shelby) -- 9.

Rep. Severance moved that Senate Bill No. 1415 be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	92
Noes.	2

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brown, Buck, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Odom, Owenby, Peroulas, Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 92.

Representatives voting no were: Brooks, Byrd -- 2.

A motion to reconsider was tabled.

*House Bill No. 0587 -- Judges and Chancellors -- Authorizes retired state, county and municipal judges and retired federal

judges and magistrates to go armed. Amends TCA 39-17-1308.

Further consideration of House Bill No. 587, previously considered on April 5, 1993, at which time Amendments 1 and 2 were adopted; Amendment No. 3 was withdrawn; Amendment No. 4 failed and Amendment No. 5 was tabled; the bill failed for lack of a constitutional majority and was re-referred to the Calendar and Rules Committee. On April 8 the Committee placed it on the Calendar for April 12, 1993.

Rep. Napier moved that House Bill No. 587 be passed, as amended, on third and final consideration.

Rep. Severance moved to adopt Amendment No. 6 as follows:

Amendment No. 6

Amend House Bill No. 587 by deleting Section 1 and by substituting instead the following:

Section 1. Tennessee Code Annotated, Section 39-17-1308, is amended by adding the following new subsection:

() It is a defense to the application of §39-17-1307 if the possession or carrying by a retired state, county, or municipal judge or any retired federal judge or magistrate was done after such retired judge or magistrate has submitted to the sheriff proof of successful completion of training in the use of firearms and proof of an effective liability policy or a corporate surety bond in an amount of not less than fifty thousand dollars.

On motion, Amendment No. 6 was adopted.

Rep. Rhinehart moved the previous question, which motion prevailed.

Rep. Napier moved that House Bill No. 587, as amended, be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	93
Noes.	3
Present and not voting.	1

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Buck, Byrd, Callicott, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis,

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Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Wix, Wood, Mr. Speaker Naifeh -- 93.

Representatives voting no were: Brown, Chiles, Winningham -- 3.

Representatives present and not voting were: Haun -- 1.

A motion to reconsider was tabled.

*House Bill No. 0381 -- Employees, Employers -- Creates board of employee assistance professionals certification and licensure; requires employee assistance professionals to be licensed. Amends TCA, Title 4, Ch. 29; Title 62.

Further consideration of House Bill No. 381, previously considered on today's Calendar.

Rep. West moved that House Bill No. 381, as amended, be passed on third and final consideration.

Rep. West moved to adopt Amendment No. 6 as follows:

Amendment No. 6

Amend House Bill No. 381 in Section 3(e) by deleting the words "for each appointment or vacancy to be filled".

On motion, Amendment No. 6 was adopted.

Amendment No. 7

Amend House Bill No. 381 by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

Section _____. The provisions of this act shall not apply in any county having a population of not less than 68,100 nor more than 68,400 according to the 1990 federal census or any subsequent federal census.

Amendment No. 7 was explained by Rep. Coffey but no motions were made.

Rep. West moved that House Bill No. 381, as amended, be reset to the Calendar for Wednesday, April 14, 1993, which motion prevailed.

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Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas, Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Wix, Wood, Mr. Speaker Naifeh -- 93.

Representatives voting no were: Brown, Chiles, Winningham -- 3.

Representatives present and not voting were: Haun -- 1.

A motion to reconsider was tabled.

***House Bill No. 0381** -- Employees, Employers -- Creates board of employee assistance professionals certification and licensure; requires employee assistance professionals to be licensed. Amends TCA, Title 4, Ch. 29; Title 62.

Further consideration of House Bill No. 381, previously considered on today's Calendar.

Rep. West moved that House Bill No. 381, as amended, be passed on third and final consideration.

Rep. West moved to adopt Amendment No. 6 as follows:

Amendment No. 6

Amend House Bill No. 381 in Section 3(e) by deleting the words "for each appointment or vacancy to be filled".

On motion, Amendment No. 6 was adopted.

Amendment No. 7

Amend House Bill No. 381 by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

Section _____. The provisions of this act shall not apply in any county having a population of not less than 68,100 nor more than 68,400 according to the 1990 federal census or any subsequent federal census.

Amendment No. 7 was explained by Rep. Coffey but no motions were made.

Rep. West moved that House Bill No. 381, as amended, be reset to the Calendar for Wednesday, April 14, 1993, which motion prevailed.

*House Bill No. 1011 -- Crime, Victims of -- Allows video testimony of victim's immediate family members at the defendant's parole hearing if the family members are unable to attend such hearing. Amends TCA 40-35-503.

Rep. Haley moved that House Bill No. 1011 be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	96
Noes.	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 96.

A motion to reconsider was tabled.

*House Bill No. 1429 -- Surplus Property -- Authorizes purchase of bloodhounds from department of general services as surplus property. Amends TCA, Title 12, Ch. 2, Pt. 4.

Rep. Rinks moved that House Bill No. 1429 be passed on third and final consideration.

Rep. Williams (Union) moved that Amendment No. 1 be withdrawn, which motion prevailed.

Rep. Rinks moved that House Bill No. 1429 be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	95
Noes.	2

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell,

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Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rinks, Ritchie, Robinson, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 95.

Representatives voting no were: Rigsby, Severance -- 2.

A motion to reconsider was tabled.

House Bill No. 0560 -- Banks and Financial Institutions -- Allows bank to reproduce examination for holding company, external auditors and legal counsel without violating confidential nature. Amends TCA 45-2-1603.

On motion, House Bill No. 560 was made to conform with **Senate Bill No. 507**; the Senate Bill was substituted for the House Bill.

Rep. Rinks moved that **Senate Bill No. 507** be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	95
Noes.	0
Present and not voting.	1

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, Westmoreland, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 95.

Representatives present and not voting were: West -- 1.

A motion to reconsider was tabled.

House Bill No. 0951 -- Codes -- Adopts American National Standard Electrical Safety Code edition dated July 10, 1992, instead of present edition dated August 1, 1989. Amends TCA 68-101-104.

Rep. Windle moved that House Bill No. 951 be reset one week to

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the Calendar for Monday, April 19, 1993, which motion prevailed.

House Bill No. 0431 -- Medicine, Practice of -- requires physicians to warn patients of any risks associated with use or repetitive use of radiation to treat non-cancerous diseases, disorders, or skin conditions; requires signed acknowledgement of receipt of such warning. Amends TCA 63-6-214.

On motion, House Bill No. 431 was made to conform with **Senate Bill No. 521**; the Senate Bill was substituted for the House Bill.

Rep. Windle moved that **Senate Bill No. 521** be passed on third and final consideration, which motion prevailed by the following vote:

Ayes.	97
Noes.	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 97.

A motion to reconsider was tabled.

MESSAGE CALENDAR

HOUSE ACTION ON SENATE MESSAGE

House Bill No. 0648 -- Employees, Employers -- Allows for civil penalties for violations of laws regarding payment of employees in private service; requires employers to make available all payroll records; requires employers to provide break times for employees. Amends TCA, Title 50, Ch. 2.

Rep. Purcell explained to the House that House Bill No. 648 was returned to the Senate as requested, for further consideration.

HOUSE ACTION ON SENATE AMENDMENTS

House Bill No. 0649 -- Children, Employment of -- Allows civil

penalties for employers' violation of child labor laws; requires employers to provide break period for child laborers. Amends TCA, Title 50, Ch. 5.

Senate Amendment No. 1

Amend House Bill No. 649 by deleting Sections 1 through 3 of the original Bill and by substituting instead the following new sections:

SECTION 1. Tennessee Code Annotated, Section 50-5-112(a), is amended by deleting the present language in its entirety and by substituting the following language:

(a) any employer as defined in Section 50-5-102(5) who violates any provision of this chapter, or hinders or obstructs the department in administering or enforcing the provisions of this chapter or any parent or guardian who permits a child under such parent's or guardian's control or custody to work in violation of the provisions of the chapter commits a Class A misdemeanor. Further, at the discretion of the commissioner, the employer shall be subject to a civil penalty of not less than one hundred fifty dollars (\$150) nor more than one thousand dollars (\$1,000). In determining the amount of such penalty, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. If the commissioner determines that the violation was unintentional there shall be a warning, in lieu of, a penalty on the first offense. On second or subsequent violations the civil penalty is applicable. It shall be at the sole discretion of the commissioner to elect to proceed either civilly or criminally upon any violation of this part, however, the employer shall not be charged both civilly and criminally for the same violation.

SECTION 2. Tennessee Code Annotated, Title 50, Chapter 5, is amended by adding a new section as follows:

Section _____. A minor must have a thirty (30) minute unpaid break or meal period if scheduled to work six (6) hours consecutively. Such break shall not be scheduled during or before the first hour of scheduled work activity.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

Rep. Purcell moved that the House concur in Senate Amendment(s) No(s). 1 to House Bill No. 649, which motion prevailed by the following vote:

Ayes.	91
Noes.	6

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chumney, Clark, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Stulce, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 91.

Representatives voting no were: Chiles, Coffey, Haun, Meyer, Shirley, Stockburger -- 6.

A motion to reconsider was tabled.

House Bill No. 0935 -- Utilities, Utility Districts -- Enacts "Underground Utility Damage Prevention Act". Amends TCA, Title 65, Ch. 31.

Senate Amendment No. 2

Amend House Bill No. 935 by deleting from Section 5 the last sentence of the amendatory language in its entirety.

Senate Amendment No. 4

Amend House Bill No. 935 by deleting subsection (b) from Section 14 and by substituting instead the following:

(b) An excavator shall exercise reasonable care to avoid damage caused by an excavation or demolition within the safety zone around the marked location of the underground utilities. For the purpose of this section "safety zone" means a strip of land at least four feet (4') wide, but not wider than the width of the utility plus two feet (2') on either side of the utility.

Senate Amendment No. 5

Amend House Bill No. 935 by deleting from Section 14(d) the third sentence and by substituting instead the following:

If, after so ascertaining, the excavator learns that its excavation or demolition is likely to interfere with the operation of the underground utility facilities, it

must again notify the affected operator of such underground utility facilities and reasonably cooperate with the operator of the underground utility facilities to conduct its excavation or demolition in such a way that the operations of the underground utility facilities are not disturbed or the affected underground utility facilities are placed out of the way of the proposed excavation or demolition.

Rep. Buck moved that the House concur in Senate Amendment(s) No(s). 2, 4 and 5 to House Bill No. 935, which motion prevailed by the following vote:

Ayes.	93
Noes.	2

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 93.

Representatives voting no were: Haun, Head -- 2.

A motion to reconsider was tabled.

UNFINISHED BUSINESS

RULES SUSPENDED

Rep. Davidson moved to suspend Rule No. 80(1), relative to the time for placing bills on notice in Committee, so that Senate Joint Resolution No. 111 could be heard by the Education Committee on Tuesday, April 13, 1993, which motion prevailed.

BILL RE-REFERRED

Rep. Davidson moved that Senate Joint Resolution No. 88 be transferred from the Education Committee to the Calendar and Rules Committee, which motion prevailed.

RULES SUSPENDED

Rep. Davidson moved to suspend Rule No. 80(1), relative to the time for placing bills on notice in Committee, so that House Bill No. 1136 could be heard by the Education Committee on Tuesday, April 13, 1993; which motion prevailed.

MESSAGE FROM THE SENATE

April 12, 1993

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 262; substituted for Senate Bill(s) on same subject(s), amended, and passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

RULES SUSPENDED

Rep. DeBerry moved that the rules be suspended for the purpose of introducing House Joint Resolution No. 201 out of order, which motion prevailed.

House Joint Resolution No. 0201 -- Memorials, Public Service -- Bishop Gilbert E. Patterson. by *DeBerry, *Jones R.

On motion, the rules were suspended for the immediate consideration of the resolution.

On motion of Rep. DeBerry, with the request that all members voting aye be added as sponsors, the resolution was adopted by the following vote:

Ayes.	96
Noes.	0

Representatives voting aye were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 96.

A motion to reconsider was tabled.

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NOTICE TO ACT ON SENATE MESSAGES

Pursuant to Rule No. 59, the sponsor(s) gave notice of intent to consider the following measure(s) from the Senate on Wednesday, April 14, 1993:

House Bill No. 262: Rep. Purcell.

SPONSORS ADDED

Under Rule No. 43, the following members were permitted to add their names as sponsors as indicated below, the prime sponsor of each having agreed to such addition:

House Bill No. 448: Rep(s). Bell as prime sponsor(s).

House Bill No. 528: Rep(s). West as prime sponsor(s).

House Bill No. 586: Rep(s). Bell as prime sponsor(s).

House Bill No. 592: Rep(s). Haun and West as prime sponsor(s).

House Bill No. 821: Rep(s). McDaniel as prime sponsor(s).

House Bill No. 830: Rep(s). Halteman Harwell, McDaniel and Stamps as prime sponsor(s).

House Bill No. 991: Rep(s). McDaniel as prime sponsor(s).

House Bill No. 1011: Rep(s). Herron as prime sponsor(s).

House Bill No. 1440: Rep(s). Severance as prime sponsor(s).

House Joint Resolution No. 56: Rep(s). West added as sponsor(s).

House Joint Resolution No. 103: Rep(s). West added as sponsor(s).

House Joint Resolution No. 193: Rep(s). Moore added as sponsor(s).

ENGROSSED BILLS
April 12, 1993

The following bills have been examined, engrossed, and are ready for transmission to the Senate: House Bill(s) No(s). 393, 748, 821, 1069, 1375, 1608, 1630 and 1632; also, House Joint Resolution(s) No(s). 148 and 192.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

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MESSAGE FROM THE SENATE

April 12, 1993

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 618, 668, 970 and 1016; substituted for Senate Bill(s) on the same subject(s) and passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

MESSAGE FROM THE SENATE

April 12, 1993

MR. SPEAKER: I am directed to return to the House, House Joint Resolution(s) No(s). 18 and 102; concurred in by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

MESSAGE FROM THE SENATE

April 12, 1993

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 202; substituted for Senate Bill(s) on the same subject(s) and passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

ENGROSSED BILLS

April 12, 1993

The following bill(s) have been examined, engrossed, and are ready for transmission to the Senate: House Bill(s) No(s). 482, 587, 1011, 1148, 1297 and 1429.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

ENGROSSED BILLS

April 12, 1993

The following bill(s) have been examined, engrossed, and are ready for transmission to the Senate: House Joint Resolution(s) No(s). 201.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

MESSAGE FROM THE SENATE

April 12, 1993

MR. SPEAKER: I am directed to transmit to the House, Senate

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Bill(s) No(s). 7, 363, 380, 727 and 828; for the signature of the Speaker.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

MESSAGE FROM THE SENATE

April 12, 1993

MR. SPEAKER: I am directed to return to the House, House Bill(s) No(s). 34, 641, 646, 679, 686, 1101, 1105, 1145, 1365 and 1535; also, House Joint Resolution(s) No(s). 93, 149, 151, 153, 154, 155, 157, 158, 159, 160 and 161; signed by the Speaker.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

MESSAGE FROM THE SENATE

April 12, 1993

MR. SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 137, 144 and 145; adopted for concurrence.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

*Senate Joint Resolution No. 0137 -- Memorials, Government Officials -- Urges Department of Transportation to erect guard rails on certain segment of S.R. 235 in Dickson County. by *Springer.

*Senate Joint Resolution No. 0144 -- General Assembly, Studies -- Creates special joint subcommittee of house and senate education committees to study effects on higher education of K-12 education reform. by *Albright, *Womack.

*Senate Joint Resolution No. 0145 -- General Assembly, Studies -- Creates special joint subcommittee of education committees to study higher education budgeting and planning process. by *Albright, *Womack.

MESSAGE FROM THE SENATE

April 12, 1993

MR. SPEAKER: I am directed to transmit to the House, Senate Bill(s) No(s). 52, 125, 166, 368, 614, 619, 668, 1054, 1077, 1089, 1159, 1302, 1330 and 1608; passed by the Senate.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

*Senate Bill No. 0052 -- Civil Procedure -- Enacts "Tennessee Anti-Slapp Act of 1993". by *Cohen.

*Senate Bill No. 0125 -- Courts, General Sessions -- Enacts "General Sessions Court Reform Act of 1993". Amends TCA, Titles 16, 19, 40. by *Haynes.

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***Senate Bill No. 0166 -- Highway Signs --** "Traveler's Information Station," Exits 78 and 81, I-24. by *Womack.

***Senate Bill No. 0368 -- Day Care --** Exempts Boys Clubs and Girls Clubs from requirements of DHS day care licensure and inspection; allows individual Boys Clubs and Girls Clubs to elect DHS day care licensure and regulation; authorizes DHS waivers. Amends TCA, Title 71. by *Atchley, *Rice, *Gilbert.

***Senate Bill No. 0614 -- Youth Development, Dept. of --** Authorizes establishment of one or more model after school and/or summer programs for young adolescents at risk of placement in state custody. by *Harper.

***Senate Bill No. 0619 -- Tobacco, Tobacco Products --** Makes it unlawful to sell, distribute or expose for sale tobacco plants, in addition to present law concerning tobacco seed, unless plants have been certified by official seed certifying agency. Amends TCA 43-10-109. by *Wallace.

***Senate Bill No. 0668 -- State Employees --** Revises State Employee Incentive Plan Act of 1992; authorizes commissioner of any other department to implement programs with approval of commissioner of finance and administration. Amends TCA 4-27-202, 203. by *Cooper.

***Senate Bill No. 1054 -- Motor Vehicles --** Authorizes correction of abstracts of motor vehicle violations in event of inaccurate, false or incorrect information; establishes penalties for intentionally preparing false or incorrect abstract. Amends TCA, Title 55, Ch. 10. by *Gilbert, *Jordan, *Person.

***Senate Bill No. 1077 -- Health, Dept. of --** Authorizes establishment of regional perinatal system. Amends TCA, Title 68, Ch. 1, Pt. 8. by *Ford.

***Senate Bill No. 1089 -- Welfare --** Establishes interagency coordination council on welfare independence. Amends TCA, Title 37, Ch. 3, Pt. 1; Title 71, Ch. 3. by *Haynes.

***Senate Bill No. 1159 -- Schools, Private --** Requires parent-teachers who teach children in grades 9-12 to have high school degree or GED; requires such students to take annual standardized achievement tests. Amends TCA 49-6-3050. by *Burks, *Leatherwood, *Rice, *Person, McKnight.

***Senate Bill No. 1302 -- Insurance, Health, Accident --** Requires small employer group insurance carrier to offer coverage under basic or standard plan to all eligible employees of small employer and their dependents. Amends TCA, Title 56. by *Hamilton.

***Senate Bill No. 1330 -- School Districts, Special --** Lifts prohibition on creation of special school districts in Shelby and Davidson counties. Amends TCA, Title 49, Ch. 2, Pt. 5. by *Leatherwood, *Person.

*Senate Bill No. 1608 -- Highway Signs -- Senator Claude Callicott Highway, segment of S.R. 96, Williamson County. by *Jordan.

CONSENT CALENDAR
April 12, 1993

The following local bills have been placed on the Consent Calendar for Monday, April 19, 1993: House Bill(s) No(s). 1633, 1634, 1635, 1636, 1637 and 1639.

ROLL CALL

The roll call was taken with the following results:

Present 97

Representatives present were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Givens, Gunnels, Haley, Halteman, Harwell, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Johnson, Jones R (Shelby), Jones U (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McAfee, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Ramsey, Rhinehart, Ridgeway, Rigeby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 97.

On motion of Rep. Purcell, the House recessed until 2:00 p.m., Wednesday, April 14, 1993.